



National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

February 25, 2021

Representative Robert C. Scott
Chair
U.S. House Committee on Education and Labor
2176 Rayburn House Office Building
Washington, DC 20515

Senator Bernie Sanders
Chair
U.S. Senate Committee on Budget
624 Dirksen Senate Office Building
Washington, DC 20510

Senator Patty Murray
Chair
U.S. Senate Committee on Help, Education,
Labor, and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

Representative Pramila Jayapal
2346 Rayburn House Office Building
Washington DC 20515 U.S. House of
Representatives
1710 Longworth House Office Building
Washington DC 20515

Representative Stephanie Murphy
U.S. House of Representatives
1710 Longworth House Office Building
Washington DC 20515

Re: Raise the Wage Act & the Fair Labor Standards Act, Section 14(c)

Dear Chairs Scott, Murray & Sanders, and Representatives Jayapal & Murphy:

As Chairman of the National Council on Disability (NCD), I write to applaud the inclusion of a provision in the Raise the Wage Act that would phase-out Section 14(c) of the Fair Labor Standards Act, consistent with the advice and counsel of NCD to Congress for the last 9 years. For eighty-three years, this exemption from minimum wage protections has been used to legally pay people with disabilities subminimum wages.

In 2012, NCD published our investigative findings in our report, "*Subminimum Wage and Supported Employment*,"¹ and recommended a systems-change approach to phasing out the 14(c)-waiver program. This investigation followed a thorough review of national research on subminimum wage employment, including "sheltered workshops," as well as site visits across the country to seek out the views and experiences of

¹ National Council on Disability, *Subminimum Wage and Supported Employment* (2012), available at <https://ncd.gov/publications/2012/August232012>, see also National Council on Disability, *National Disability Employment Policy, From the New Deal to the Real Deal: Joining the Industries of the Future* (2018), available at <https://ncd.gov/publications/2018/new-deal-real-deal> (affirming NCD's 2012 findings in a follow-up investigation six years later).

workers with disabilities, family members, workshop operators, supported employment providers, and policymakers. As a result of that investigation, NCD reached the following conclusions:

- Sheltered workshops are ineffective at transitioning individuals with disabilities to integrated employment;
- Only around 5% of sheltered workshops employees left to take a job in the community, although workshops are supposed to be a time-limited path to competitive employment;
- There is no higher rate of employment for individuals who undergo “training” in a sheltered workshop versus individuals who go directly into supported employment;
- 95% of all workers with disabilities being paid less than minimum wage under the 14(c) program were employed by sheltered workshops; and
- Employees receiving supported employment services generate lower cumulative costs than employees receiving sheltered workshop services, and the cost-trend of supported employees shifts downward over time, while the opposite is the case for individuals receiving services in sheltered workshops.

Today, 14(c) waivers symbolize a policy relic of the past that needs to be phased out. 14(c) was enacted during the 1930s New Deal era, during a time when the country struggled to find opportunities for employment for people with disabilities in a primarily industrial and economic system. It was enacted at a time where both the charity and medical models of disability were the predominant social constructs by which people with disabilities were viewed. It was further enacted against the backdrop of the Eugenics movement in the United States and the prevalence of the Ugly Laws, which we reference to illuminate the then prevalent negative and hostile societal views of people with disabilities.

14(c) waivers created a separate path in society for people with disabilities in federally sanctioned segregated work settings that paid subminimum wages. Since then, societal views of people with disabilities have evolved and Congress has taken several steps to recognize civil rights protections for people with disabilities through the passage of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Developmental Disabilities Assistance and Bill of Rights Act of 2000, and most recently the Workforce Innovation and Opportunity Act of 2014. Collectively, they declare and articulate a national policy to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion through opportunities for competitive integrated employment. The continued existence of 14(c) waivers is antithetical to that declaration.

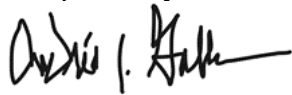
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We look forward to working with the sponsors of this bill and other policymakers in any capacity desired to ensure a move away from subminimum wages consistent with modern national disability policy and the successful transition of people with disabilities into competitive integrated jobs.

Respectfully,

A handwritten signature in black ink, appearing to read "Andrés J. Gallegos", with a long horizontal flourish extending to the right.

Andrés J. Gallegos
Chairman